

CAPITAL PLANNING ADVISORY BOARD

Minutes of the 3rd Meeting of the 2003 Calendar Year

August 18, 2003

The 3rd meeting of the Capital Planning Advisory Board was held on Monday, August 18, 2003, at 9:00 AM, in Room 113 of the Capitol Annex. Senator Albert Robinson, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Albert Robinson, Co-Chair; Representative Ron Crimm; James Deckard; Bill Hintze; Sherron Jackson; Lou Karibo; Cicely Lambert; William May; Glenn Mitchell; and Laurel True.

Guests: Dr. William Brundage, Commissioner, Office of the New Economy; Donna Duncan, Commissioner, Department of Financial Incentives, and Warren Nash, Deputy Commissioner, Department of Financial Incentives, Economic Development Cabinet; Harvey Mitchell, Chief of Staff, Ira Linville, Executive Director, Office of Environmental Services, and Bill Burnette, Director, Division of Farmland Preservation, Department of Agriculture; Jody Lassiter, Commissioner, Department for Local Government; Lori Flanery, General Counsel, and Brad Sweazy, Manager, Renaissance Kentucky, Kentucky Housing Corporation; Robert Tarvin, Executive Director, School Facilities Construction Commission; and Roger Recktenwald, Director, Kentucky Infrastructure Authority.

LRC Staff: Pat Ingram, Staff Administrator; Mary Lynn Collins; Nancy Osborne; and Dawn Groves.

Chairman Robinson said minutes for the July 31/August 1 meeting would be available for review and approval at the next meeting. He then asked CPAB Staff Administrator, Pat Ingram, to review the information items included in the members' folders.

Ms. Ingram said the first item addressed several postsecondary education-related issues from the last meeting. It included additional information concerning the Space Planning Guidelines used by the Council on Postsecondary Education (CPE) to review space needs of the postsecondary institutions, an update indicating the report on CPE's review of the postsecondary information technology items has not yet been received by the Board, and a listing of the extended campus sites operated on a full-time basis by the institutions in either leased or owned space.

Mr. True asked Mr. Jackson to explain CPE's extended campus policy and said there are so many sites, it appears the universities are trying to develop their own community college systems. Mr. Jackson explained CPE's position was that a public or private institution should be within 30 miles of any individual seeking a postsecondary education. With construction of the already-authorized regional postsecondary education centers and implementation of the Kentucky Virtual University, this goal has been met. However, in some instances existing space needs to be replaced. Mr. True asked if CPE will make recommendations to the Board as to whether or not specific facilities are needed. Mr. Jackson said CPE will have a list of specific project recommendations.

Senator Robinson said the 1997 Postsecondary Education Improvement Act expanded opportunities for individuals to receive a higher education, but additional options are still needed.

Continuing her review of the Information Items, Ms. Ingram said the second item summarized information from recent newspaper articles about the future of the Lexington Veterans Affairs Medical Center, which had been discussed at the Board's last meeting.

Regarding the third Information Item, Ms. Ingram noted that at the last meeting there were many references to the priority the Board has placed on adequate maintenance of state-owned facilities. This item provided background information on the topic including a description of the various types of maintenance projects and fund sources available, agency maintenance pools, postsecondary maintenance pools, and CPAB recommendations from the *2002-2008 Statewide Capital Improvements Plan*.

Senator Robinson said the Board would continue its review of the agency six-year capital plans today focusing on those containing grant and loan programs authorized in the capital budget, and then asked Ms. Ingram to proceed with the staff overview.

Ms. Ingram said the members' folders included statewide summary information for all of the plans including distributions by type of project and proposed fund source, and the distribution by area of government. For the six-year period, over \$10 billion in projects were proposed when all fund sources are included, with nearly \$7 billion being state funds. Most of the dollars are for construction projects – either to protect the state's investment in its existing plant or to expand existing or create new facilities. Relative to area of government, projects proposed by the postsecondary institutions comprise over one-half of the total.

Ms. Ingram said being reviewed today were agencies that administer grant and loan programs that provide assistance to non-state entities and are authorized in the capital budget. There are five agencies overseeing 11 programs for which an additional \$1 billion in state funds are being proposed over the next three biennia. Ms. Ingram noted

that much of the state funding in the current capital budget was directed to these grant and loan programs.

Mr. Hintze reminded members of the enormous list of needs and opportunities relative to facilities, equipment, and information technology that the Board saw in its review of the agency capital plans at the last meeting. He noted that most of the funding available to address capital needs is through the issuance of bonds, but that almost all of the bond funds authorized in the current budget (2002-04) were for grant and loan programs to assist local communities or leverage private sector development, rather than for conventional capital projects to address needs of existing facilities or to carry out agency operations. He does not know whether this was a conscious policy change or just resulted from the current budget situation. He said it is important to realize this was a wholesale shift in one direction that has not been seen before; the pendulum may or may not swing back into more equilibrium in the future. Mr. Hintze said the Board needs to be aware that this results in the state now having to balance the conventional project needs of state agencies with the new focus on the grant and loan programs.

Economic Development Cabinet - Dr. William Brundage, Commissioner, Office for the New Economy (ONE), said the Office was established by the 2000 General Assembly. Its program is designed to build Kentucky's infrastructure for the economy of the 21st century. He said a strategic plan has been developed with input from throughout the state, and projects totaling \$255 million are underway representing a state investment of \$65.5 million and \$189.8 million from other sources. The strategic plan determined what types of projects should be funded, and the specific projects are approved by the Kentucky Economic Development Finance Authority (KEDFA) Board.

Citing the Energy and Environmental Consortium project in western Kentucky, Dr. Brundage said ONE wants to make sure the rest of the state does not play a passive role, and so is not focusing solely on the "Golden Triangle." Referencing a handout that had been provided to CPAB members, Dr. Brundage said other projects address using the tobacco plant to develop drugs, bringing broadband technology to various parts of the state, medical technology (artificial heart and related devices), and public safety and homeland security. He said the ONE picks niches where Kentucky can compete. Noting that other states have been involved in this type of activity for a long time and have invested billions of dollars, he said building this infrastructure is absolutely necessary for Kentucky to participate in the New Economy. For each biennium of the planning period, an additional \$40 million in state funds for the new economy pools (high tech investment and high tech construction) is being proposed.

Senator Robinson asked how results of allocations from the high-tech construction and investment pools would be measured and when the results would be known. Dr. Brundage said Kentucky is working with several states on an approach that will run simulations of return on investment, both projected and after the fact.

Regarding Senator Robinson's question about job creation and maintenance requirements, Dr. Brundage said the goal is to have more, higher paying jobs. He said the universities in many states bring in more research and development funding than in Kentucky, so funding over the next decade will be necessary in order for Kentucky compete.

In response to Senator Robinson's question as to what determines if the funds are awarded as a grant or a loan, Dr. Brundage said there are few loans. Most of the allocations are considered to be investments, rather than grants. It is easier to leverage funds in the urban areas than in the rural areas. He added that any loans are for a five-year term at a 3 percent interest rate. Repayments go back into the investment pool.

Responding to Senator Robinson's question about responsibility for maintenance and capital renewal costs when New Economy monies fund construction or facilities, Dr. Brundage said the institutions need to be responsible. However, the ONE is helping with operating funds for some projects on a temporary basis, primarily in order to ensure proper management. Relative to the cardiovascular institute involving the University of Louisville, the private sector is putting together a \$25 million package for operations over the next five years.

Addressing Senator Robinson's question about the difference between the \$10 million combined high-tech investment/construction construction pool authorized from restricted funds and the separate \$15 million bond pool in the 2002-04 budget, Dr. Brundage said the bond pool will be used for construction projects.

Mr. True asked about the CPE's role relative to the new economy projects. Mr. Jackson said CPE staff works with the staff of the ONE as they develop and review projects, but the CPE does not have a statutory role in approving the projects. He said the ONE does not create new programs; funding is usually provided to enhance or upgrade an existing activity at the institution's request. Stating that he has concerns about funding for maintenance and staffing issues for the facilities and programs, Mr. True said he would like for the Board to approve a policy recommendation asking the 2004 General Assembly to clarify this issue.

Dr. Brundage noted that each approved project must address commercialization; the intent is to create companies and to commercialize technologies. He said partnerships with the private sector will result in the availability of private funds for operations costs. Senator Robinson said he agreed with Mr. True's request and added it is important that future costs be disclosed when such projects are presented.

Mr. Hintze said the focus on sustainability and compatibility is well founded. He added that it is important to note that, by design, the ONE is part of the Economic

Development Cabinet instead of postsecondary education because capital funds to meet economic development objectives are usually a lower priority for the postsecondary institutions than maintaining their existing physical plant.

Warren Nash, Deputy Commissioner, Department of Financial Incentives, provided an overview of the Economic Development (ED) Bond Program. Since the ED Bond Program was first authorized in the 1980-82 budget, there have been 55 projects involving \$136 million in bonds, not including projects that have been funded through specified budget line-item authorizations.

As one of the first economic development tools, the ED Bond Program was initially one of the few tools for attracting industry to Kentucky. Over time, however, the program has been used as secondary incentives as compared to tax incentive programs or other programs within the Cabinet. Mr. Nash pointed out that the resources available currently from the ED Bond Program are at an historic low with only \$10 million appropriated in the current biennial budget of which \$5 million is for a specified line-item project. The program usually has \$12 – 15 million available during a biennium.

Mr. Nash explained that should an entity receiving funding from the ED Bond Program not satisfy the jobs criteria or minimum salary requirements in the assistance agreement, a payback of all or part of the funding is required and goes to the local community.

Next, Commissioner Donna Duncan reviewed the Kentucky Economic Development Finance Authority (KEDFA) Loan program. She said the KEDFA program is the oldest incentive program within the Cabinet and is a loan program. The maximum amount available for a loan is \$500,000; the minimum is \$5,000. To date, there are over \$50 million in loans outstanding, of which \$29 million is to intermediary entities (such as local governments) and \$21 million represents direct loans to private businesses. The program has less than 1% in loan losses. Operating expenses of the program are financed from a \$500 application fee and 1% service fee on the amount of the loan.

In response to questions from Senator Robinson, Commissioner Duncan said loans have totaled approximately \$10 to \$15 million per year recently. The number and nature of the loans depend on new companies coming in or expanding, and that is tied to the economic climate. Most of the loans have a five-year term and repayments total approximately \$890,000 per month.

Chairman Robinson asked what factors were used to determine the proposed state funding in each biennium of the plan. Commissioner Duncan explained that the intent is to rebuild the KEDFA pool to its level prior to being used to fund the New Economy pools and to address the state budget problems.

Noting that the KEDFA funds are used for loans and the EDB and New Economy funds are used primarily for grants, Mr. Hintze asked if there is a different audience for each program. Commissioner Duncan said the most active economic development programs are not the grant or loan programs, but those that provide tax credits.

Department of Agriculture – Chief of Staff Harvey Mitchell identified the current locations of the Department's offices and noted there is an interest in consolidating some staff from the various divisions that handle regulatory and inspections functions. However, such a decision will not be made at this time.

Addressing the funding provided in the 2002-04 budget for animal shelters, Mr. Mitchell said the counties make application to the Animal Control Advisory Board, which disperses the funds. No additional funds are being proposed for this program.

Ira Linville, Executive Director, Office of Environmental Services, and Bill Burnette, Director, Division of Farmland Preservation, then explained the Purchase of Agriculture Conservation Easements (PACE) program. As established in 1994, PACE is Kentucky's farmland preservation program. Purchases of easements are made to ensure land remains available for agriculture and is not converted to other uses. Mr. Linville reviewed materials distributed to the Board that described the program and provided various statistics for Kentucky and other states. Among other items, he noted that to date easements with a value of \$8,854,500 have been granted for 10,437 acres on 52 farms in the state. In process are another 7,860 acres on 26 farms at an estimated cost of \$7,600,000. This will exhaust the remaining funds now available.

In response to Representative Crimm's questions, Mark Farrow, Administrator of the Animal Control Advisory Board, said the Department monitors counties receiving animal shelter grants for compliance with the guidelines on use of the funds and correctly sheltering the animals. Mr. Mitchell added that there is also a monitoring program related to the PACE program.

Mr. True said planning and zoning is not part of the PACE program, and urged the Department not to get into those issues when explaining the programs to local groups.

While noting that the PDR program in Fayette County is not part of the PACE program, Mr. Hintze said it has received state funding and asked if the Department has access to information on that program. Mr. Linville said the Fayette County program is very different from the state PACE program, and the Department has no oversight responsibility for the PDR program. He said the Department is working with three other counties that have expressed an interest in establishing their own programs (Shelby, Jefferson, and Kenton).

In response to Senator Robinson's question, Mr. Linville said the PACE program is working as is evidenced by the large number of applications to participate in it.

Explaining the selection and funding requirements in response to further questions from Senator Robinson, Mr. Linville said points are awarded based on various criteria. The selection criteria award more points to land outside urban areas since there is not enough funding to compete with developers. Additionally, easements are not acquired that would contribute to "leapfrog" development. Those applications that rise to the top of the priority list are then considered for funding, which involves appraisals of the value of the land for agriculture use and for development purposes.

Regarding Senator Robinson's questions about funding for the program and what type of land is eligible, Mr. Linville said federal funds require a 50% match from the state, and the federal criteria focus on cropland areas rather than forest land. He also assured the Board that efforts are made to have all or part of the easement donated.

Department for Local Government (DLG) - Commissioner Jody Lassiter described two programs as being DLG's top priorities for funding - the Flood Control Matching Fund and the Renaissance Kentucky program. He explained that a close working relationship with the US Army Corp of Engineers has enhanced DLG's ability to project the funding needs for the Flood Control Matching Fund.

Regarding the Renaissance Kentucky program, which funds projects to revitalize downtown areas in Kentucky communities through a coordinated effort of seven state agencies, Commissioner Lassiter said both bond funds through the capital budget (\$6 million) and additional cash funding in the operating budget will be proposed (\$18 million) in each biennium. He explained that there are various needs and aspects of the program for which bonds cannot be used.

After outlining restrictions on the use of bond funds (project must have a 20-year life and proceeds must be expended within three years to avoid IRS penalties), Mr. Hintze asked Commissioner Lassiter to address the needs of both DLG programs relative to cash vs. bond funding. Commissioner Lassiter said with regard to the Flood Control Program, DLG has worked with the Corps to establish a process to request and expend state bonds as efficiently as possible. However, there are some items such as pre-construction studies and analyses for which bond funds cannot be used. Additionally, some projects for which federal PRIDE funds are matched are more suitable for cash funding because of the length and size of projects.

Commissioner Lassiter introduced Lori Flanery, General Counsel for Kentucky Housing Corporation (KHC), to address the question relative to the Renaissance Kentucky program. (KHC provides administrative support for the program.) Ms. Flanery said having bond funds is currently not a problem because \$35 - \$50 million in project

needs that qualify for bond funding have been identified, but this may become a concern in the future.

Senator Robinson asked about information submitted by DLG indicating there is a \$6.2 million funding gap for 16 projects that previously received awards. Brad Sweazy, Manager, Renaissance Kentucky, explained that the gap had been eliminated by funds appropriated by the 2003 General Assembly (2002-04 budget) and by private sector funding.

Senator Robinson asked several questions about the DLG proposal to use Flood Control Matching funds for the repair of local government-owned dams and for local government drainage problems. Commissioner Lassiter said he does not believe creation of a new program or any statutory changes would be required, but additional funds would be needed. He noted that the program was expanded in 1998 to include straight-pipe eradication projects. Mr. Hintze explained that, by statute, the Natural Resources and Environmental Protection Cabinet cannot work on locally-owned dams. He said there may be some need to ensure the prohibition does not have a broader application.

School Facilities Construction Commission (SFCC) – SFCC Director Dr. Robert Tarvin reviewed a handout that had been distributed to CPAB members. Those materials explained the various state funding available for school construction, with particular focus on SFCC. They addressed how the SFCC need and allocations for individual districts are calculated, and included charts showing the funding since 1986-88.

Dr. Tarvin said \$2.2 billion in bonds are currently outstanding for which \$82.6 million of debt service is required this year. He said debt service was not provided for all of the bonds authorized for SFCC in the 2002-04 budget. Approximately \$15 million in additional funds to provide for that debt service will be required in the next budget.

In response to Mr. True's question, Dr. Tarvin said a project must be included in a school district's Facility Plan to qualify for funding.

Responding to Senator Robinson's questions, Dr. Tarvin said establishment of the Urgent Needs School Trust Fund and the Category Five Building Fund was not initiated by the SFCC and as such, the agency is not proposing increased funding for them. Dr. Tarvin also explained that the additional funding of \$116 million each biennium proposed by SFCC for the ongoing program is based on distributing the total unmet need – calculated at approximately \$800 million - across a multi-year period.

Kentucky Infrastructure Authority (KIA) – Director Roger Recktenwald described various programs operated by KIA, including the Federally Assisted Wastewater Revolving Loan Program (Fund A) and the Federally Assisted Drinking Water Revolving Loan Program (Fund F). He also discussed KIA's responsibility, as assigned by the 2000

General Assembly, for coordination of community-based planning for infrastructure and the development of incentives to consolidate utilities. He noted that the 2002-04 budget included numerous line-item projects, which were primarily identified from the database that was created in doing the community-based planning. Mr. Recktenwald said KIA also has statutory authorization to use loan repayments from the federal program to pay debt service on new bond issues, and can transfer such funds between the wastewater and drinking water programs. Finally, he noted that bonds for the Kentucky PRIDE program (landfill clean up) are authorized in the KIA budget, but the agency serves only as a pass-through by selling the bonds and making the proceeds available to the Natural Resources and Environmental Protection Cabinet, which administers the program.

Mr. Hintze asked whether, given the large volume of projects that have been authorized, there is the capacity to handle the need for engineering, contractor, and other services. Mr. Recktenwald said they have not done any formal research into this, but he noted that the projects are of differing sizes and complexity, will not all be bid at the same time, and some will be handled in-house without the community having to acquire outside services.

In a follow-up question, Mr. Hintze asked if KIA monitors the projects relative to the bidding process, etc. Mr. Recktenwald said a comprehensive tracking system for the projects is being incorporated into the database; it will include tracking of the bids. He noted that recipients must go through the clearinghouse process, procure in compliance with KRS 45A, and use the uniform accounting system. Currently, there is a requirement that the general counsel for the entity receiving the funds certify compliance with the relevant regulatory and procurement processes.

Senator Robinson asked whether KIA has the flexibility to focus on wastewater problems (straight pipes) which present a more pressing hazard, rather than the cleanup of old landfills. Mr. Recktenwald said KIA does work with the federal PRIDE program which addresses these issues. He said amounts from Fund A can be used to match federal funds that are earmarked for specific wastewater projects. He added that KIA is working to establish a single, standard format for the initial application for all of the programs, with more specific items to be addressed based on the particular program after eligibility has been determined.

In response to Mr. Hintze's question about the increasing focus of KIA on providing grants rather than loans where the repayments can be leveraged, Mr. Recktenwald said they try to have both available in order to package a combination of assistance (grants and loans) in a manner that best serves the community and its needs. He said the amount of agency bonds proposed in the plan is based on what the federal government will allow relative to transfers of loan repayments. The total volume of requests reflects a need for over \$1 billion for water and \$2.5 billion for wastewater projects.

Mr. Hintze noted that, while the new programs for the tobacco counties and the coal counties appear to have a dedicated funding source to support the debt service, it will be treated as General Fund supported debt. The designations primarily relate to the category of counties in which projects are located.

Senator Robinson said it is important that KIA's expertise be used in implementing the projects and if statutory changes are needed to ensure that is done, those should be brought to the General Assembly for consideration. Mr. Hintze noted that some projects are listed in the appropriations act with a great deal of specificity, while others are not. He urged that the project listings be crafted in such a way as to identify the purpose but not be overly specific such that the project cannot proceed if it cannot be undertaken exactly as listed.

This being the final agency plan to be presented today, Senator Robinson asked if the Board wished to discuss or propose any policy recommendations to be included in the *2004-2010 Statewide Capital Improvements Plan*.

Mr. True expressed concern about the proposals that have been submitted by the Department of Veterans Affairs for the construction of additional facilities and said he thinks opportunities to do other things are being missed. He noted that while the federal VA is moving away from its existing hospitals and nursing homes, they are still involving the state in the construction of such facilities. He said the facilities may be constructed primarily with federal funds, but taking care of them will place a tremendous burden on the state in the future. He urged the Board to raise this issue and to express the need for better information from the VA on its long-range plans.

Chairman Robinson said the next meeting is scheduled for September 15 to review the Judicial Branch plan and continue working on developing the statewide plan.

There being no further business Representative Crimm's motion to adjourn was seconded by Mr. Karibo. The meeting adjourned at 12:30 p.m.